Class 2 Problems: Relevance

Question 1: Worker (a machine operator) is injured when his hand is caught in a machine

Part A: Assume we are in a jurisdiction where workers may sue their employers in tort for their injuries. In order to recover worker must show that the employer was at fault (perhaps the machine had not been serviced properly). Employers may escape liability if they can show the worker was negligent and his negligence contributed to the injury.

At trial, employer wants to call a co-worker who was on the scene immediately after the accident and noticed that there was a piece of half-eaten pizza next to the machine.

Worker objects to the evidence as irrelevant. How should the judge rule?

Part B: Assume for this section that the employer wants to call a co-worker who will testify that she found a piece of half-eaten pizza next to the machine a week after the accident.

Worker objects to the evidence as irrelevant. How should the judge rule?

Part C: Assume for this part we are in a jurisdiction which uses a workers compensation system. Under this system, employees may not sue for damages, but they can get their medical bills and lost wages paid if they are hurt at work. In this case, fault is not an issue. The employee must only show that he was injured at work. Contributory negligence is not a defense.

At trial, employer wants to call a co-worker who was on the scene immediately after the accident and noticed that there was a piece of half-eaten pizza next to the machine.

Worker objects to the evidence as irrelevant. How should the judge rule?
**Question 2:** Pedestrian was hit by a hit and run driver. She has sued Defendant, but he claims it was not him or his car that hit her, but some other car and driver. The parties have stipulated that Defendant owns a Red, Toyota Prius, with license plate number XKL 995.

**Part A:** Plaintiff Pedestrian call witness who will testify that he saw the accident, and that the car involved was a red car, but that is all he could see.

Defendant objects to the evidence as irrelevant. How should the judge rule?

**Part B:** Would your answer to Part A change if the accident took place on a dark night, and the judge (in a jury trial) does not believe that the witness would have been able to see what color the car was?

**Part C:** What about the testimony increases as we go from A to C?

A. The car was red  
B. The car was a red Toyota Prius  
C. The car was a red Toyota Prius with the license plate number XKL 995
**Question 3:** Defendant Husband and wife are accused of embezzlement of a large sum of money. The prosecution would like to introduce evidence that they owned two expensive houses, drove expensive luxury cars, and threw lavish, expensive parties.

**Part A:** Defendant objects to the evidence as irrelevant. How would you argue, for the prosecution that the evidence is relevant?

**Part B:** Assume that the judge finds that the evidence **is** relevant. How would you argue for the defense that even if relevant, the evidence should **not** be admitted? How should the judge rule?

**Part C:** Assume for this question that the judge admitted the evidence of their opulent lifestyle, because it was relevant (making it more likely they had embezzled a large amount of money) and that although it was somewhat “unfairly prejudicial,” the prejudice did not substantially outweigh its probative value.”

Now the prosecutor would like to enter evidence that the defendants had a $1,000 a day cocaine habit. The defense objects to the evidence.

Discuss how the judge should rule.
Part D: Assume for this part that the judge rules, that in her judgment, the defendants had not met their burden under Rule 403 to keep the evidence out.

If the defendants are convicted and appeal, based on the admission of this evidence, what standard would the Court of Appeals use on appeal and how would you expect them to rule if they disagreed with the judge’s decision?

Part E: Assume again that the judge admitted the evidence, and in doing so said:

“The courts in this circuit have developed a rule that in embezzlement cases, evidence of significant expenditures by defendants is always admissible to show motive, since the probative value of such expenditures is so strong, that it is never substantially outweighed by unfair prejudice, even if the expenditures reveal criminal activity.”

If the defendants are convicted and appeal, based on the admission of this evidence, what standard would the Court of Appeals use on appeal and how would you expect them to rule?
Class 2: Relevance: Rules 401-403

Rule 401. Test for Relevant Evidence

Evidence is relevant if:

(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and

(b) the fact is of consequence in determining the action

Rule 402. General Admissibility of Relevant Evidence

Relevant evidence is admissible unless any of the following provides otherwise:

- the United States Constitution;
- a federal statute;
- these rules; or
- other rules prescribed by the Supreme Court.

Irrelevant evidence is not admissible

Rule 403. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons

The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence